



DEPARTMENT OF THE NAVY
COMMANDER NAVY REGION SOUTHWEST
937 N. HARBOR DR.
SAN DIEGO, CA 92132-0058

IN REPLY REFER TO:

COMNAVREGSWINST 5800.1
N05HD

4 OCT 2016

COMNAVREGSW INSTRUCTION 5800.1

From: Commander, Navy Region Southwest

Subj: REGION VICTIM AND WITNESS ASSISTANCE PROGRAM

Ref: (a) DODD 1030.1
(b) DODI 1030.2
(c) SECNAVINST 5800.11B
(d) OPNAVINST 5800.7
(e) Manual for Courts-Martial (2005 ed.)
(f) through (s), see enclosure (1)

Encl: (1) References
(2) Military Victim Assistance Programs
(3) Sample Victim Witness Liaison Officer (VWLO)/
Command Victim Witness Assistance Coordinator (VWAC)
Appointing Order

1. Purpose. To implement a Victim and Witness Assistance Program (VWAP) in Commander, Navy Region Southwest's (CNRSW) geographical area of responsibility (AOR). This instruction designates the persons responsible for identifying victims and witnesses of crime and performing the services required in references (a) through (d).

2. Background. Seeking to address the needs of victims and witnesses of crime, Congress enacted a series of laws designed to inform the victims and witnesses of crime of their rights and positions in the criminal justice system. The Department of Defense (DOD) established policy and directed implementation of relevant legal provisions in references (a) and (b). The Department of the Navy (DON) fully embraces this mandate and will do everything possible within the limits of available resources to assist victims and witnesses of crimes without infringing upon the constitutional rights of the accused.

3. Applicability. The provisions of this instruction apply to all DON personnel who are engaged in the detection, investigation or prosecution of crimes and who assist crime victims and witnesses in Navy Region Southwest (NRSW). This instruction pertains to victims of offenses and to witnesses

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under military jurisdiction, which includes victims of and witnesses to offenses committed by military personnel in violation of a punitive article of the Uniform Code of Military Justice set forth in reference (e). The provisions of this instruction are not limited to offenses prosecuted at courts-martial. Crime victims and witnesses do not forfeit their status when offenses are referred for nonjudicial punishment or administrative processing.

4. Policy

a. All victims and witnesses will be treated with respect as described in enclosures (2) and (3) of reference (d). Activities within CNRSW AOR will minimize, within the means of available resources and in accordance with applicable laws, the physical, psychological, financial hardships suffered by victims of crimes investigated by DON activities, and make all reasonable efforts to foster cooperation by victims and witnesses.

b. Other Victim and Witness Assistance Programs. Victims and witnesses of domestic abuse or sexual assault often require assistance beyond the information and referrals required under VWAP (see enclosure (2)). References (f) through (s) provide additional guidance and specific program information.

(1) Family Advocacy Program. References (f) through (h) are the source instructions for NRSW's Family Advocacy Program which addresses prevention, evaluation, identification, rehabilitation and behavioral education and counseling, follow-up and reporting of child and domestic abuse. Enclosure (6) to reference (g) sets forth information about Military Protective Orders (MPOs). MPOs can be issued in child and domestic abuse cases to protect potential victims, stabilize the situation, and allow additional time for investigation. The greater the need to protect potential victims, the more reason that an MPO should be issued.

(2) Sexual Assault Prevention and Response -- Option of Restricted/Unrestricted Reporting for Military Victims of Sexual Assault. All victim advocates must be familiar with references (i) through (m). References (i) through (m) address sexual assault prevention and response, and establish a restricted reporting option that allows a service member who is sexually assaulted to confidentially disclose the details of his/her assault to specified individuals and receive medical treatment, counseling, and advocacy without automatically triggering the

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official investigative process. Unrestricted reporting of sexual assaults is encouraged to ensure that persons are held accountable for their actions, including the possibility of prosecution for committing acts of sexual assault. Reference (m) sets forth current Navy policy regarding confidentiality for victims of sexual assault.

(3) Domestic Violence -- Option of Restricted/Unrestricted Reporting for Adult Victims of Domestic Violence. Victim advocates must also be aware of references (n) and (o) which provide the framework for confidential, restricted reporting for adult victims of domestic abuse. Restricted reporting is limited to adult victims of domestic abuse who are eligible to receive military medical treatment as outlined in paragraph 2 of reference (o). Adult victims of domestic abuse have the option of making a restricted or unrestricted report as described in reference (o).

(4) Sexual Assault Intervention (SAVI) Program. References (p) and (q) form the basis for NRSW's SAVI program which ensures that victims of sexual assault receive sensitive care and are not re-victimized as a result of reporting the incident; are advised of their rights in accordance with reference (d); are made aware of and encouraged to exercise their options during each stage of the medical, investigative and legal processes; have access to appropriate assistance, and, where eligible, medical care and counseling; and that sexual assaults are reported in accordance with reference (m).

c. While special attention should be paid to victims and witnesses of serious violent crime, all victims and witnesses of a crime who have suffered physical, psychological, or financial trauma are eligible for the assistance provided for in this instruction. In cases where the United States or the public is the victim, victim assistance will normally be unnecessary, but there may be witnesses in those cases who will be entitled to witness services.

d. Neither the underlying statute nor the implementing directives, including this instruction, create a cause of action or defense in favor of any person arising out of the failure to afford victims or witnesses any of the rights or entitlements discussed in this instruction.

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5. Program Overview

a. CNRSW is responsible for the overall implementation of VWAP in NRSW. As described in reference (d), VWAP is a multi-disciplinary model designed to identify and assist victims and witnesses of crime through the criminal justice process, beginning with the initial report of a crime and continuing through eventual disposition of the case, which may include the prosecution, sentencing, confinement, and release of the offender.

b. Installation Commanding Officers (ICOs) are responsible for ensuring the victims and witnesses (whether military or civilian) of crimes under military jurisdiction are afforded their rights and kept informed on the status of the criminal case until administrative (nonjudicial punishment, or administrative separation) or other judicial disposition is completed.

c. Each discipline (e.g., law enforcement, security, criminal investigations, convening authorities, legal and corrections) is responsible for keeping victims and witnesses informed during its respective stage of the criminal justice process and ensuring a smooth transition of victim and witness assistance from one stage to the next.

d. Service providers (e.g., Fleet and Family Support Center personnel, Family Advocacy counselors, health care personnel, chaplains, and legal assistance attorneys) are responsible for providing available services to victims and witnesses and referrals to community-based services when appropriate.

6. Action

a. Per reference (d), CNRSW has direct responsibility for shore establishments located in the CNRSW AOR, and will serve as the regional coordinator for VWAP functions. Type Commanders have responsibility for fleet units. Naval activities in CNRSW AOR are requested to cooperate with designated NRSW VWAP personnel.

b. Victim Witness Liaison Officer (VWLO). CNRSW will appoint, in writing (including name, title, duty address, and telephone number), a VWLO (see enclosure (3) for a sample letter). The VWLO's responsibilities are to coordinate regional VWAP functions, including training. The VWLO shall:

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(1) Ensure that installations within their geographic AOR each appoint a Victim Witness Assistance Coordinator (VWAC).

(2) Obtain and maintain a list of VWACs within the geographic AOR of NRSW.

(3) Obtain and maintain, with the assistance of Community Support Program services, a directory of military and civilian programs, services, and crime victim compensation funds available within the AOR to which a victim or witness may be referred and that are available to provide counseling, treatment, and other support to victims.

(4) Obtain and distribute information to VWACs, to include the directory of VWACs and the directory of area programs and services.

(5) Ensure victims and witnesses are notified of their rights under reference (d).

(6) Ensure victims and witnesses are notified of the names, titles, duty addresses, and telephone numbers of the VWACs involved in their cases.

(7) Assist victims and witnesses as appropriate and necessary in exercising their rights.

(8) Chair meetings of the local Victim and Witness Assistance Council.

(9) The VWLO will also be the regional point of contact (POC) for questions regarding payment of monthly transitional compensation to dependents of members of the Navy separated for dependent abuse, as provided under references (r) and (s). Per reference (s), the member's servicing personnel activity is the primary coordinating activity and the first POC for a reimbursement claim and the source from which to obtain copies of the DFAS procedures for claim submission. Fleet and Family Support Center counselors, Family Advocacy counselors, and Naval Legal Service Office legal assistance attorneys may also answer questions and assist in referring members or dependents who have questions about transitional compensation for abused family members (TCAFM). Those offices should advise their clients about TCAFM program specifics, record as much information as practical on the Application for Transitional Compensation (DD Form 2698), and forward it in accordance with reference (s).

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DD Form 2698 may be obtained online at:
www.dtic.mil/whs/directives/infomgt/ind.htm.

c. Victim and Witness Assistance Council. A Victim and Witness Assistance Council, hereinafter referred to as "Council," will be established to coordinate the development of policy recommendations and the implementation of VWAP. The Council shall meet quarterly, or as determined by the chairman, and will provide a forum for the exchange of information in assisting and advocating for victims and witnesses of crimes. Representatives of the Council are responsible for disseminating information received from the Council to their respective subordinate commands or branch offices. The VWLO will be the chairman of the Council with the Assistant VWLO as the co-chairman.

(1) The Council shall be composed of representatives from the following commands: Naval Base San Diego, Naval Base Coronado, Naval Base Point Loma, Naval Medical Center San Diego, Region Legal Service Office Southwest (RLSO SW), and Naval Legal Service Office Southwest (NLSO SW).

(2) The Council shall also be composed of representatives from the following activities: Naval Criminal Investigative Service (NCIS), Community Support Program (a Family Advocacy Program and/or SAVI Program representative), Regional Chaplain, and Public Safety.

(3) NRSW commands located outside the San Diego metro area may send representatives to the Council meetings and such representatives will become part of the Council.

(4) Type Commanders or their designated representatives are invited to attend and participate in Council meetings.

d. Installation Commanding Officers (ICOs). ICOs are responsible for understanding and aggressively supporting VWAP policies, and ensuring command compliance with references (a) through (d) and this instruction. ICOs, through the support of the Program Director for Public Safety and a command VWAC, shall:

(1) Ensure that personnel involved in criminal investigations, law enforcement, and security are trained in VWAP policies and requirements; provide crime victims and witnesses with an Initial Information For Victims and Witnesses of Crime (DD Form 2701); maintain the data required in paragraph

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7(b)(3) of reference (d); and meet their responsibilities as described further in enclosure (5) to reference (d).

(2) Educate command personnel as to the rights of victims and witnesses per enclosures (2) and (3) to reference (d).

(3) If confinement is adjudged at a summary court-martial, ensure confinement documents and Victim/Witness Certification and Election Concerning Inmate Status (DD Form 2704) are provided to the confinement facility at the time of confinement.

(4) The command VWAC is the command's primary POC in the area of victim and witness assistance. Appoint in writing (including name, title, duty address, and telephone number), a command VWAC (see enclosure (3) for a sample letter), who shall:

(a) Obtain and distribute materials on VWAP and provide training to members of the command.

(b) Assist the regional VWLO. Provide a copy of their VWAC letter of appointment to the regional VWLO.

(c) Coordinate VWAP functions within the command's geographical area.

(d) Co-chair the regional Victim and Witness Assistance Council as required by the VWLO.

(e) Ensure that victims and witnesses receive information and services as required under reference (d).

(f) Ensure close coordination among representatives of NCIS, base legal staff, base security, naval hospital/branch medical clinic, FFSC, brig, and chaplain.

(g) Act as POC for the command regarding VWAP questions, resource referrals, and/or comments. See enclosures (5) and (6) of reference (d) setting forth investigative and law enforcement personnel VWAP responsibilities, and command VWAC VWAP responsibilities.

e. Commanding Officer (CO), RLSO SW and CO, NLSO SW. CO, RLSO SW shall ensure that trial counsel meet their responsibilities under VWAP as delineated in enclosure (7) to reference (d). If confinement is adjudged at a special or

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general court-martial, the RLSO SW must ensure the confinement document and DD Form 2704 are provided to the confinement facility at the time of confinement. CO, RLSO SW and CO, NLSO SW will ensure that judge advocates provide crime victims information and assistance concerning compensation programs available from the state, and other financial relief to which the victim may be entitled. If any victims who are seen as clients have not been afforded victim assistance per reference (d), contact the region AVWLO who will coordinate assistance for the victim. CO, RLSO SW and CO, NLSO SW will appoint, in writing, including name, title, duty address, and telephone number, a representative to participate in regional Council meetings.

f. The Region Chaplain shall provide overall advice, instruction, assistance, and moral/ethical guidance regarding chaplain involvement in support of VWAP. The Region Chaplain shall ensure that:

(1) Chaplains are trained in VWAP and meet their responsibilities as service providers per enclosure (8) to reference (d).

(2) Chaplain representatives are appointed, in writing, by name, title, duty address, and telephone number, to participate in regional Council meetings.

(3) Chaplains who come in contact with victims or witnesses who have not received victim and witness assistance should contact the region VWLO who will coordinate assistance to the victim or witness.

g. Commander, Naval Medical Center (NAVMEDCEN) San Diego and Commanding Officer, Naval Hospital (NAVHOSP) Lemoore, are responsible for providing advice, guidance, and assistance regarding the medical aspects of VWAP. Commander, NAVMEDCEN San Diego and CO, NAVHOSP Lemoore shall:

(1) Sponsor, implement, and maintain a training program in VWAP for Navy medical department personnel to enhance their interaction with victims or witnesses, whether through medical or mental health treatment, counseling, or outpatient care. This may be coordinated through the region VWLO.

(2) Ensure that medical personnel meet their responsibilities as service providers per enclosure (8) to reference (d).

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(3) Ensure that medical representatives are appointed in writing, by name, title, duty address, and telephone number, to participate in regional Council meetings.

h. Fleet and Family Support Centers (FFSC) shall meet their responsibilities per enclosure (8) to reference (d).

i. Family Advocacy Programs (FAP) shall meet their responsibilities per enclosure (8) to reference (d). Additionally, a FAP representative shall be appointed in writing, by name, title, duty address, and telephone number, to participate in regional Council meetings.

j. Program Director for Public Safety shall ensure that all investigative, security and law enforcement personnel meet their responsibilities per enclosure (5) to reference (d).

k. Confinement facilities shall meet their responsibilities per enclosure (9) to reference (d) and appoint in writing, by name, title, duty address, and telephone number, a representative to participate in regional Council meetings.

7. Responsibilities. Commands reporting directly to CNRSW shall ensure the Annual Report on Victim and Witness Assistance, (DD Form 2706) is submitted to RLSO SW command services department [which may be contacted at (619) 556-1670 or DSN: 526-1670] no later than 15 January for data from the previous calendar year. Commands not reporting directly to CNRSW should submit their DD 2706 to their respective Type Commanders.

8. Resources. The region VWLO and the command VWAC are primary resources for all VWAP issues. They will have information on military and civilian victim assistance available in the local area. Enclosure (2) provides information on additional military programs designed to assist crime victims.

9. Reports and Forms. All reports and forms related to VWAP are included in reference (d) and can be found at www.dtic.mil/whs/directives/infomgt/ind.htm.



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Distribution:

Electronic only, via CNRSW Directive Website
<http://www.cnrsw.navy.mil/admin/index.htm>

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REFERENCES

- (f) SECNAVINST 1752.3B
- (g) OPNAVINST 1752.2A
- (h) COMNAVREGSWINST 1752.2A
- (i) DODD 6495.01
- (j) DODI 6495.02
- (k) SECNAVINST 1752.4A
- (l) Deputy Secretary of Defense Memorandum, "Confidentiality Policy for Victims of Sexual Assault"
- (m) NAVADMIN 128/05, "Changes to Navy Policy Regarding Confidentiality for Victims of Sexual Assault"
- (n) Deputy Secretary of Defense Memorandum, "Restricted Reporting Policy for Incidents of Domestic Abuse"
- (o) NAVADMIN 113/06, "Restricted Reporting Policy for Incidents of Domestic Abuse"
- (p) OPNAVINST 1752.1A CH-2
- (q) COMNAVREGSWINST 1752.3
- (r) DODI 1342.24
- (s) OPNAVINST 1750.3

Enclosure (1)

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MILITARY VICTIM ASSISTANCE PROGRAMS

While VWAP is the principal victim assistance program, a summary of other victim assistance entitlements is provided below.

1. Sexual Assault Victim Intervention (SAVI) Program. The SAVI Program consists of 1) awareness and prevention education, 2) victim advocacy and intervention, and 3) collection of reliable data on sexual assault. Under this program, victims of sexual assault will be offered and provided, if requested, a victim advocate at the time the crime is reported. The victim advocate is trained to provide emotional support and information to the victim, throughout the entire process of medical examination, interview by law enforcement personnel, and prosecution of an accused. The SAVI Program provides additional services to victims of sexual assault because of the trauma associated with these crimes.

2. Family Advocacy Program (FAP). FAP provides counseling services to victims of domestic violence and referrals to civilian agencies, and works as a liaison for the victim with the command in obtaining military protective orders and removal of an abusive service member from the home.

3. Benefits for Dependents who are Victims of Abuse by Members Losing Right to Retired Pay. Section 1408(h) of Title 10, United States Code, provides that the spouse (or former spouse) and dependent children of a service member are entitled to receive a portion of the member's disposable retired pay if:

a. The member, after becoming retirement eligible on the basis of years of service, has his or her eligibility to receive retirement pay terminated as a result of misconduct involving abuse of a spouse or dependent child;

b. The spouse, or former spouse, obtains a divorce decree with a court order, in the manner applicable to a division of property, for the payment of an amount from the disposable retired pay of the member; and,

c. The spouse or former spouse was married to the member for at least 10 years of which the member was giving creditable service. The spouse and dependent children are entitled to receive medical and dental care, to use commissary and exchange stores, and to receive other benefits provided to dependents of retired members of the armed forces in the same manner as if the member was entitled to retired pay. Eligibility of the spouse

Enclosure (2)

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to receive payments is terminated upon remarriage. This program is managed by Defense Finance and Accounting Service (DFAS) Legal Counsel at commercial (215) 522-5404, ext. 3126, or DSN 580-5404, ext. 3126. Upon request, DFAS Legal Counsel will provide an information packet with application to the spouse to determine eligibility.

4. Transitional Compensation. Section 1059 of Title 10, United States Code, provides for a monthly payment to spouses and dependent children who have been the victims of abuse by their service member sponsor. This entitlement applies when the service member has been separated from the service for misconduct resulting from the abuse of his or her dependents. The separation can be either the result of court-martial or administrative processing. The payments are made from 12 to 36 months (time remaining on member's obligated service at time payments commence determines the number of months), and the amount of payments is based on the Dependency and Indemnity Compensation rate found in Section 1311 (a)(1) of Title 38, United States Code. The member cannot reside in the same household and the spouse cannot have been an active participant in the case of child abuse. Eligibility of the spouse to receive payments terminates upon remarriage. Transitional compensation does not provide for medical or dental benefits except for problems associated with the abuse. However, the spouse and children may be eligible to receive up to 12 months of medical benefits as a Secretary of the Navy Designee (see NAVMEDCOMINST 6320.3B). The spouse and children are entitled to use of commissary and exchange stores while eligible to receive transitional compensation. Application forms can be obtained from Fleet and Family Service Centers, Personnel Support Detachments, victim services specialists and legal assistance offices. See references (r) and (s) of enclosure (1) for further information.

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SAMPLE LETTER APPOINTING VWLO/AVWLO

IN REPLY REFER TO:

5800

Ser ____/

From: [Commander][Commanding Officer], (Name of Command)

To: [Rank, First, MI, & Last Name, USN]

Subj: APPOINTMENT AS [(VICTIM WITNESS LIAISON OFFICER)
(VICTIM WITNESS ASSISTANCE COORDINATOR)]

Ref: (a) OPNAVINST 5800.7
(b) COMNAVREGSWINST 5800.1

1. Per references (a) and (b), effective this date you are appointed as the (Name of Command), [(Victim Witness Liaison Officer) (Victim Witness Assistance Coordinator)].

2. Please familiarize yourself with references (a) and (b) regarding your specific duties and responsibilities.

3. As a Victim Witness Assistance Coordinator, you may also seek guidance, training, and assistance through the region Victim Witness Liaison Officer.]

[Initials, Last Name]

[Copy to:
Region VWLO]

Enclosure (3)